

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7846**

**BILL NUMBER:** SB 477

**NOTE PREPARED:** Jan 11, 2005

**BILL AMENDED:**

**SUBJECT:** Assault Weapons.

**FIRST AUTHOR:** Sen. Simpson

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** The bill makes the manufacture, sale, transfer, or possession of an assault weapon by an unauthorized person a Class C felony. It also makes the operation of a loaded assault weapon by an unauthorized person a Class B felony.

The bill also allows a court to sentence a person to an additional fixed term of imprisonment of not more than 20 years if the state can prove beyond a reasonable doubt that the person possessed an assault weapon while committing an offense concerning dealing in a controlled substance.

**Effective Date:** July 1, 2005.

**Explanation of State Expenditures:** The bill would establish a Class C felony for knowingly or intentionally manufacturing, selling, offering for sale, giving, transferring ownership, acquiring, or possessing an assault weapon. However, the bill would provide certain exceptions for actions taken prior to October 1, 2005. Under the bill, knowingly or intentionally operating an assault weapon would be a Class B felony.

Depending upon mitigating and aggravating circumstances, a Class C felony is punishable by a prison term ranging from 2 to 8 years and a Class B felony is punishable by a prison term ranging from 6 to 20 years. The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately 2 years and for all Class B felony offenders is approximately

3.7 years.

Under current law, the state may seek to have a person who allegedly committed an offense of dealing in a controlled substance under IC 35-48-4-1 through IC 35-48-4-4 sentenced to an additional fixed term of imprisonment of 20 years if the weapon is a machine gun or equipped with a silencer or muffler. Under the bill, an assault weapon would be added. According to Department of Correction commitment data, on average between 2000 and 2004, there were 1,289 people a year committed to a DOC facility for a controlled substance dealing offense. There are no data to specifically indicate how many of these commitments included an additional fixed sentence. Data from a one-day look of the prison population on December 16, 2004, suggest that approximately 8.5% of Class A offenders, 5.7% of Class B offenders, and 38.0% of Class C felony offenders who were convicted of a controlled substance dealing offense were sentenced to an additional term. [Note: This supposition is based on the number of offenders whose maximum release date is greater than the maximum sentence for their primary sentence. Another factor that could cause this increase is additional convictions served consecutively.] Since these offenders would have a later date of release, adding a fixed term could increase the number of beds needed if no other change occurs.

**Explanation of State Revenues:** If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for both a Class C or Class B felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association, Department of Correction.

**Fiscal Analyst:** Karen Firestone, 317-234-2106.